

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074  
MINORITY (202) 225-5051

<http://oversight.house.gov>

### Opening Statement Ranking Member Elijah E. Cummings

#### H.R. 2195, OSC Access Act

May 2, 2017

Thank you, Mr. Chairman. I am pleased to be a cosponsor of the OSC Access Act.

This bill includes language similar to a bill the House already passed earlier this year to reauthorize the Office of Special Counsel. That larger bill includes a host of provisions, but this bill simply clarifies that OSC has the right to obtain information from other agencies to conduct its work.

The Committee is considering this bill because the Department of Homeland Security has instituted a policy of withholding information from OSC. The Transportation Security Agency has been using this policy as an excuse to withhold from OSC any agency communication that includes an agency attorney.

Special Counsel Carolyn Lerner testified before the Committee on March 2, 2017, that, and I quote, “no court has ever held the attorney-client privilege can be asserted during intragovernmental administrative investigations.”

She also testified, quote, “OSC must review communications between management officials and agency counsel to determine whether an agency acted with a legitimate or unlawful basis in taking action against a whistleblower.”

It is important that this Committee pass this bill and send a clear signal that we support OSC and its work. No agency is above the law. No agency has the right to withhold information from OSC that it needs to investigate claims of whistleblower retaliation.

This bill is being considered with an amendment to make changes requested by the Inspector General for HHS. Those changes would ensure that documents protected by court order or under seal in a False Claims Act case would continue to be protected.

I have no objection to the amendment. I urge all Members to support the OSC Access Act.

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Contact: Jennifer Werner, Communications Director, (202) 226-5181.